

**Memorandum of Decision: 01-20170181R
Individual Income Tax
For the Year 2013**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Individual that amended his Indiana income tax return for the year 2013 provided documentation supporting his position that the claimed refund was properly due.

ISSUE

I. Adjusted Gross Income Tax—Amended Return.

Authority: IC § 6-3-1-3.5; IC § 6-3-4-6.

Taxpayer protests the denial of his amended return.

STATEMENT OF FACTS

Taxpayer is an individual who amended his federal and Indiana income tax returns for the year 2013. The Indiana Department of Revenue ("Department") denied the refund claimed in the Taxpayer's amended 2013 Indiana income tax return. Taxpayer filed a protest with the Department. A telephone hearing was held and this Memorandum of Decision results. Further facts will be supplied as required.

I. Adjusted Gross Income Tax—Amended Return.

DISCUSSION

The Department, in a letter dated February 3, 2017, denied Taxpayer's amended 2013 Indiana income tax return. The Department's letter stated, "The department has reviewed your amended tax return for 2013 but must deny it because we need an accounts transcript from the IRS for 2013." The letter said that Taxpayer could "[s]end in copy once you get it then we will review your amended return," and the letter also outlined the Department's protest procedures. Taxpayer filed a protest.

Taxpayer's March 31, 2017, protest letter states in pertinent part that "the amended federal return for tax year ending December 2013 has been filed and is still processing as of the date of this Protest." Further, Taxpayer states that "as soon as the IRS completes the processing of the 2013 federal income tax return and updating the Taxpayer's account to reflect any changes, the Taxpayer will provide the requested IRS 2013 account transcript"

IC § 6-3-1-3.5 defines individual "adjusted gross income" ("as defined in Section 62 of the Internal Revenue Code") and also states what modifications are to be made to adjusted gross income. IC § 6-3-4-6 also deals with an amendment made to a federal income tax return. That statute states:

(a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which the taxpayer has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification as provided in subsection (c) of:

(1) a federal income tax return filed by the taxpayer after January 1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.

The taxpayer shall file the notice on the form prescribed by the department within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.

(c) For purposes of subsection (b), a modification occurs on the date on which a:

- (1) taxpayer files an amended federal income tax return;
 - (2) final determination is made concerning an assessment of deficiency;
 - (3) final determination is made concerning a claim for a refund;
 - (4) taxpayer waives the restrictions on assessment and collection of all, or any part, of an underpayment of federal income tax by signing a federal Form 870, or any other Form prescribed by the Internal Revenue Service for that purpose. For purposes of this subdivision:
 - (A) a final determination does not occur with respect to any part of the underpayment that is not covered by the waiver; and
 - (B) if the signature of an authorized representative of the Internal Revenue Service is required to execute a waiver, the date of the final determination is the date of signing by the authorized representative of the Internal Revenue Service;
 - (5) taxpayer enters into a closing agreement with the Internal Revenue Service concerning the taxpayer's tax liability under Section 7121 of the Internal Revenue Code that is a final determination. The date the taxpayer enters into a closing agreement under this subdivision is the date the closing agreement is signed by an authorized representative of the Internal Revenue Service; or
 - (6) modification or alteration in an amount of tax is otherwise made that is a final determination; for a taxable year, regardless of whether a modification results in an underpayment or overpayment of tax.
- (d) For purposes of subsection (c)(2) through (c)(6), a final determination means an action or decision by a taxpayer, the Internal Revenue Service (including the Appeals Division), the United States Tax Court, or any other United States federal court concerning any disputed tax issue that:
- (1) is final and conclusive; and
 - (2) cannot be reopened or appealed by a taxpayer or the Internal Revenue Service as a matter of law.
- (e) If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.
- (Emphasis added)

As part of his protest, Taxpayer has provided the Department with additional documentation. That documentation includes the requested IRS "Account Transcript" and also an IRS "Record of Account." Since Taxpayer now has the documentation that was previously requested, Taxpayer's protest is sustained. The IRS information now shows Taxpayer's Adjusted Gross Income (AGI) as being the amount listed on Taxpayer's Indiana amended income tax return.

FINDING

Taxpayer's protest is sustained.

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